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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,007	09/24/2003	Rie Sato	242635US6RD	1801
22850 7590 03/23/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER ROSE, KIESHA L	
			ART UNIT 2822	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		03/23/2007	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/23/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

**Application No.**

10/669,007

**Applicant(s)**

SATO ET AL.

**Examiner**

Kiesha L. Rose

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

This Office Action is in response to the request for reconsideration filed 8 June 2006.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5 and 7-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Carey et al. (U.S. Publication 2005/0030674).

In re claims 1,7 and 10, Carey discloses an exchange coupled magnetic structure (Fig. 3a) that contains an emitter (138), a collector (136) formed adjacent to the emitter, a base (103/104/105) formed between the emitter and the collector and having a magnetization pinned layer of ferromagnetic material (103), a magnetization free layer of ferromagnetic material (105) and a nonmagnetic layer (104) between the magnetization pinned layer of ferromagnetic material and the magnetization free layer of ferromagnetic material, the magnetization pinned layer having a magnetization substantially fixed in an applied magnetic field, the magnetization free layer having a

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magnetization substantially free to rotate under the applied magnetic field, and the nonmagnetic layer being configured to decouple exchange coupling between the magnetization free layer of ferromagnetic material and the magnetization pinned layer of ferromagnetic material, a tunnel barrier layer (134) of antiferromagnetic material formed between the magnetization pinned layer of ferromagnetic material and the emitter or between the collector and the magnetization pinned layer of ferromagnetic material and provided with an exchange coupling with adjoining one of the magnetization pinned layer of ferromagnetic material, the magnetization of the magnetization pinned layer of ferromagnetic material being fixed by the exchange coupling between the magnetization pinned layer of ferromagnetic material and the tunnel barrier of antiferromagnetic material.

In re claim 2, the antiferromagnetic material is cobalt oxide. (Page 2, Paragraph 0018)

In re claim 3, a dielectric layer (135) of nonmagnetic material formed in contact with the tunnel barrier layer of antiferromagnetic material.

In re claim 4, the magnetization pinned layer includes a metal selected from the group consisting of Fe, Co, Ni or an alloy containing the metal and the tunnel barrier layer of antiferromagnetic material contains an oxide of the metal. (Page 2, Paragraph 0018, Page 5, Paragraphs 0057,0059)

In re claim 5, the tunnel barrier of antiferromagnetic material is formed between the magnetization pinned layer and the emitter and the emitter include a semiconductor surface contacting the tunnel barrier layer of the antiferromagnetic material. (Fig.3a) (As

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stated in the specification of the application the tunnel barrier is a laminated surface with an antiferromagnetic material and a nonmagnetic material, so the tunnel and dielectric layer are considered the tunnel barrier layer and are contacting the emitter)

In re claims 8 and 11, the collector electrically coupled with an electrical field effect transistor and the spin-tunnel transistor and the electrical field effect transistor are formed on the same substrate. (Page 1, Paragraph 0003)

In re claims 9 and 12, a magnetic flux guide magnetically coupled with the magnetization free layer. (Page 1, Paragraphs 0004 and 0005)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carey as applied to claim 1 above, and further in view of Katti.

In re claim 6, Carey discloses all the limitations except for the tunnel barrier in contact with the magnetization free layer. Whereas Katti discloses a spin valve (Fig. 4) that contains a magnetization free layer (412) and a tunnel barrier (414), where the tunnel barrier is in contact with the magnetization free layer. The tunnel barrier is in contact with magnetization free layer to control the magnetization of the layer to allow for consistency of the switching magnetic moments at a low magnetic field, which

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improves switching reliability. (Column 6, lines 20-37) Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was formed to modify the device of Carey by incorporating the tunnel barrier to contact the magnetization free layer to improve the switching reliability as taught by Katti.

### ***Response to Arguments***

Applicant's arguments filed 5 January 2007 have been fully considered but they are not persuasive. Applicant argues that the Carey reference is a sensor instead of a transistor. As claimed in the present inventions specification the spin-tunnel transistor is a magnetic sensor (Page 1, lines 9-12) and the Carey reference discloses a magnetic sensor and has the same structure as the claimed invention. In addition the applicant argues that the Carey reference does not disclose a base, this is erroneous as disclosed the base includes multiply layers (103-105) as shown in Fig. 3a of Carey and as disclosed in Fig. 1 of present invention. Since the layers of the base layer are the same layers and materials as the claimed invention, then the layers (103-105) of Carey would be the base of the device. Therefore the rejection stands.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiesha L. Rose whose telephone number is 571-272-1844. The examiner can normally be reached on T-F 8:30-6:00 off Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zandra Smith can be reached on 571-272-2429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



KLR